

**SENATE  
STATE OF MINNESOTA  
NINETY-FOURTH SESSION**

**S.F. No. 2619**

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DATE  
03/17/2025

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Introduction and first reading  
Referred to Environment, Climate, and Legacy

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to solid waste; exempting paper products from the extended producer  
1.3 responsibility program managing solid waste; amending Minnesota Statutes 2024,  
1.4 sections 115A.1441, subdivisions 10, 16, 26; 115A.1442; 115A.1450, subdivision  
1.5 4; 115A.1451, subdivision 7; 115A.1454, subdivision 1.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2024, section 115A.1441, subdivision 10, is amended to  
1.8 read:

1.9 Subd. 10. **Covered material.** "Covered material" means packaging ~~and paper products~~  
1.10 introduced in this state. Covered material does not include exempt materials.

1.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.12 Sec. 2. Minnesota Statutes 2024, section 115A.1441, subdivision 16, is amended to read:

1.13 Subd. 16. **Exempt materials.** "Exempt materials" means materials, or any portion of  
1.14 materials, that are:

1.15 (1) ~~are~~ packaging for infant formula, as defined in United States Code, title 21, section  
1.16 321(z);

1.17 (2) ~~are~~ packaging for medical food, as defined in United States Code, title 21, section  
1.18 360ee(b)(3);

1.19 (3) ~~are~~ packaging for a fortified oral nutritional supplement used by persons who require  
1.20 supplemental or sole source nutrition to meet nutritional needs due to special dietary needs  
1.21 directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive,  
1.22 as those terms are defined by the International Classification of Diseases, Tenth Revision;

2.1 (4) ~~are~~ packaging for a product regulated as a drug or medical device by the United  
2.2 States Food and Drug Administration, including associated components and consumable  
2.3 medical equipment;

2.4 (5) ~~are~~ packaging for a medical equipment or product used in medical settings that is  
2.5 regulated by the United States Food and Drug Administration, including associated  
2.6 components and consumable medical equipment;

2.7 (6) ~~are~~ drugs, biological products, parasiticides, medical devices, or in vitro diagnostics  
2.8 that are used to treat, or that are administered to, animals and are regulated by the United  
2.9 States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act,  
2.10 United States Code, title 21, section 301 et seq., by the United States Department of  
2.11 Agriculture under the federal Virus-Serum-Toxin Act, United States Code, title 21, section  
2.12 151 et seq.;

2.13 (7) ~~are~~ packaging for products regulated by the United States Environmental Protection  
2.14 Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, United States Code,  
2.15 title 7, section 136 et seq.;

2.16 (8) ~~are~~ packaging used to contain liquefied petroleum gas and are designed to be refilled;

2.17 ~~(9) are paper products used for a newspaper's print publications, including supplements~~  
2.18 ~~or enclosures, that include content derived from primary sources related to news and current~~  
2.19 ~~events;~~

2.20 ~~(10) are paper products used for a magazine's print publication that has a circulation of~~  
2.21 ~~less than 95,000 and that primarily includes content derived from primary sources related~~  
2.22 ~~to news and current events;~~

2.23 ~~(11) are~~ (9) packaging used to contain hazardous or flammable products regulated by  
2.24 the 2012 federal Occupational Safety and Health Administration Hazard Communication  
2.25 Standard, Code of Federal Regulations, title 29, section 1910.1200, that prevent the packaging  
2.26 from being waste reduced or made reusable, recyclable, or compostable, as determined by  
2.27 the commissioner;

2.28 ~~(12) are~~ (10) packaging that is being collected and properly managed through a paint  
2.29 stewardship plan approved under section 115A.1415;

2.30 ~~(13) are~~ (11) exempt materials, as determined by the commissioner under section  
2.31 115A.1453, subdivision 6; or

2.32 ~~(14) are~~ (12) covered materials that:

3.1 ~~(i) a producer distributes to another producer;~~

3.2 ~~(ii) are subsequently used to contain a product, and the product is distributed to a~~  
 3.3 ~~commercial, institutional, industrial, or business entity for the production of another product;~~  
 3.4 and

3.5 ~~(iii) are not subsequently introduced to a any other person other than the commercial or~~  
 3.6 ~~business entity that first received the product used for the production of another product.~~

3.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.8 Sec. 3. Minnesota Statutes 2024, section 115A.1441, subdivision 26, is amended to read:

3.9 Subd. 26. **Producer.** (a) "Producer" means the following person responsible for  
 3.10 compliance with requirements under sections 115A.144 to 115A.1463 for a covered material  
 3.11 introduced:

3.12 (1) for items sold in or with packaging at a physical retail location in this state:

3.13 (i) if the item is sold in or with packaging under the brand of the item manufacturer or  
 3.14 is sold in packaging that lacks identification of a brand, the producer is the person that  
 3.15 manufactures the item;

3.16 (ii) if there is no person to which item (i) applies, the producer is the person that is  
 3.17 licensed to manufacture and sell or offer for sale to consumers in this state an item with  
 3.18 packaging under the brand or trademark of another manufacturer or person;

3.19 (iii) if there is no person to which item (i) or (ii) applies, the producer is the brand owner  
 3.20 of the item;

3.21 (iv) if there is no person described in item (i), (ii), or (iii) within the United States, the  
 3.22 producer is the person who is the importer of record for the item into the United States for  
 3.23 use in a commercial enterprise that sells, offers for sale, or distributes the item in this state;  
 3.24 or

3.25 (v) if there is no person described in items (i) to (iv), the producer is the person that first  
 3.26 distributes the item in or into this state;

3.27 (2) for items sold or distributed in packaging in or into this state via e-commerce, remote  
 3.28 sale, or distribution:

3.29 (i) for packaging used to directly protect or contain the item, the producer of the packaging  
 3.30 is the same as the producer identified under clause (1); and

4.1 (ii) for packaging used to ship the item to a consumer, the producer of the packaging is  
 4.2 the person that packages the item to be shipped to the consumer;

4.3 (3) for packaging that is a covered material and is not included in clauses (1) and (2),  
 4.4 the producer of the packaging is the person that first distributes the item in or into this state;  
 4.5 and

4.6 ~~(4) for paper products that are magazines, catalogs, telephone directories, or similar~~  
 4.7 ~~publications, the producer is the publisher;~~

4.8 ~~(5) for paper products not described in clause (4):~~

4.9 ~~(i) if the paper product is sold under the manufacturer's own brand, the producer is the~~  
 4.10 ~~person that manufactures the paper product;~~

4.11 ~~(ii) if there is no person to which item (i) applies, the producer is the person that is the~~  
 4.12 ~~owner or licensee of a brand or trademark under which the paper product is used in a~~  
 4.13 ~~commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or~~  
 4.14 ~~not the trademark is registered in this state;~~

4.15 ~~(iii) if there is no person to which item (i) or (ii) applies, the producer is the brand owner~~  
 4.16 ~~of the paper product;~~

4.17 ~~(iv) if there is no person described in item (i), (ii), or (iii) within the United States, the~~  
 4.18 ~~producer is the person that imports the paper product into the United States for use in a~~  
 4.19 ~~commercial enterprise that sells, offers for sale, or distributes the paper product in this state;~~

4.20 ~~or~~

4.21 ~~(v) if there is no person described in items (i) to (iv), the producer is the person that first~~  
 4.22 ~~distributes the paper product in or into this state; and~~

4.23 ~~(6)~~(4) a person is the producer of a covered material sold, offered for sale, or distributed  
 4.24 in or into this state, as defined in clauses (1) to ~~(5)~~(3), except:

4.25 (i) where another person has mutually signed an agreement with a producer as defined  
 4.26 in clauses (1) to ~~(5)~~(3) that contractually assigns responsibility to the person as the producer,  
 4.27 and the person has joined a registered producer responsibility organization as the responsible  
 4.28 producer for that covered material under sections 115A.144 to 115A.1463. In the event that  
 4.29 another person is assigned responsibility as the producer under this subdivision, the producer  
 4.30 under clauses (1) to ~~(5)~~(3) must provide written certification of that contractual agreement  
 4.31 to the producer responsibility organization; and

5.1 (ii) if the producer described in clauses (1) to ~~(5)~~ (3) is a business operated wholly or in  
 5.2 part as a franchise, the producer is the franchisor if that franchisor has franchisees that have  
 5.3 a commercial presence within the state.

5.4 (b) "Producer" does not include:

5.5 (1) a state, a federal or state agency, a political subdivision, or other governmental unit;

5.6 (2) a registered 501(c)(3) charitable organization or 501(c)(4) social welfare organization;

5.7 (3) a de minimis producer;

5.8 (4) a mill that uses any virgin wood fiber in the products it produces; or

5.9 (5) a paper mill that produces container board derived from 100 percent postconsumer  
 5.10 recycled content and nonpostconsumer recycled content.

5.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.12 Sec. 4. Minnesota Statutes 2024, section 115A.1442, is amended to read:

5.13 **115A.1442 ESTABLISHMENT OF PROGRAM.**

5.14 Producers must implement and finance a statewide program for packaging ~~and paper~~  
 5.15 ~~products~~ in accordance with sections 115A.144 to 115A.1463 that encourages redesign to  
 5.16 reduce the environmental impacts and human health impacts and that reduces generation  
 5.17 of covered materials waste through waste reduction, reuse, recycling, and composting and  
 5.18 by providing for the collection, transportation, and processing of used covered materials  
 5.19 for reuse, recycling, and composting.

5.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.21 Sec. 5. Minnesota Statutes 2024, section 115A.1450, subdivision 4, is amended to read:

5.22 Subd. 4. **Content of needs assessment.** A needs assessment must include at least the  
 5.23 following:

5.24 (1) an evaluation of:

5.25 (i) existing waste reduction, reuse, recycling, and composting, as applicable, for each  
 5.26 covered materials type, including collection rates, recycling rates, composting rates, reuse  
 5.27 rates, and return rates, as applicable, for each covered materials type;

5.28 (ii) overall recycling rate, composting rate, reuse rate, and return rate for all covered  
 5.29 materials; and

6.1 (iii) the extent to which postconsumer recycled content, by the best estimate, is or could  
6.2 be incorporated into each covered materials type, as applicable, including a review of market  
6.3 and technical barriers to incorporating postconsumer materials into covered materials;

6.4 (2) an evaluation of covered materials in the disposal, recycling, and composting streams  
6.5 to determine the covered materials types and amounts within each stream, using new studies  
6.6 conducted by the commissioner or publicly available and applicable studies;

6.7 (3) proposals for a range of outcomes for each covered materials type to be accomplished  
6.8 within a five-year time frame in multiple units of measurement, including but not limited  
6.9 to unit-based, weight-based, and volume-based, for each of the following:

6.10 (i) waste reduction;

6.11 (ii) reuse rate and return rates;

6.12 (iii) recycling rates;

6.13 (iv) composting rates; and

6.14 (v) postconsumer recycled content, if applicable;

6.15 (4) proposals for a range of outcomes for the categories established in section 115A.1451,  
6.16 subdivision 7, that consider:

6.17 (i) information contained in or used to prepare a needs assessment according to this  
6.18 subdivision;

6.19 (ii) goals and requirements of the Waste Management Act;

6.20 (iii) statewide goals for greenhouse gas emission reductions under section 216H.02;

6.21 (iv) the need for continuous progress toward overall reduction in the generation of  
6.22 covered materials waste and the complete reuse, recycling, or composting of covered  
6.23 materials to reduce environmental impacts and human health impacts;

6.24 (v) a preference for statewide requirements that accomplish and further the goals and  
6.25 requirements in items (ii) to (iv) as soon as practicable and to the maximum extent achievable;  
6.26 and

6.27 (vi) information from packaging and paper product producer responsibility programs  
6.28 operating in other jurisdictions;

6.29 (5) an evaluation of the factors for each covered material collected for recycling or  
6.30 composting as established in section 115A.1453, subdivision 4;

7.1 (6) recommended collection methods by covered materials type to maximize collection  
7.2 efficiency, maximize feedstock quality, and optimize service and convenience for collection  
7.3 of covered materials to be considered or that are included on lists established in section  
7.4 115A.1453;

7.5 (7) proposed plans and metrics for how to measure progress in achieving performance  
7.6 targets and statewide requirements;

7.7 (8) an evaluation of options for third-party certification of activities to meet obligations  
7.8 of sections 115A.144 to 115A.1463;

7.9 (9) an inventory of the current system, including:

7.10 (i) infrastructure, capacity, performance, funding level, and method and sources of  
7.11 financing for the existing covered services for covered materials operating in the state;

7.12 (ii) an estimate of total annual costs of covered services based on registered service  
7.13 provider costs; and

7.14 (iii) availability and cost of covered services for covered materials to covered entities  
7.15 and any other location where covered materials are introduced, including identification of  
7.16 disparities in the availability of these services in environmental justice areas compared with  
7.17 other areas and proposals for reducing or eliminating those disparities;

7.18 (10) an evaluation of investments needed to increase waste reduction, reuse, recycling,  
7.19 and composting rates of covered materials according to the range of proposed performance  
7.20 targets and statewide requirements, including investments in existing and new infrastructure  
7.21 that would also:

7.22 (i) maintain or improve operations of existing infrastructure and accounts for waste  
7.23 reduction, reuse, recycling, and composting of covered materials statewide;

7.24 (ii) expand the availability and accessibility of recycling collection services for recyclable  
7.25 covered materials to all covered entities to optimize service and convenience; and

7.26 (iii) establish and expand the availability and accessibility of reuse services for reusable  
7.27 covered materials;

7.28 (11) a recommended methodology for applying criteria and formulas to establish  
7.29 reimbursement rates as described in section 115A.1455;

7.30 (12) an assessment of the viability and robustness of markets for recyclable covered  
7.31 materials and the degree to which these markets can be considered responsible markets;

8.1 (13) an assessment of the level and causes of contamination of source-separated recyclable  
8.2 materials, source-separated compostable materials and collected reusables, and the impacts  
8.3 of contamination on service providers, including the cost to manage this contamination;

8.4 (14) an assessment of toxic substances intentionally added to covered materials, whether  
8.5 this limits one or more covered materials types from being used as a marketable feedstock,  
8.6 and best practices producers can implement to reduce intentionally added toxic substances  
8.7 in covered materials that could be verified through suppliers certificates of compliance,  
8.8 testing, or other analytical and scientifically demonstrated methodology;

8.9 (15) an assessment of current best practices to increase public awareness, educate, and  
8.10 complete outreach activities accounting for culturally responsive materials and methods  
8.11 and an evaluation of the efficacy of these efforts, including assessments and evaluations of  
8.12 current best practices and efforts on:

8.13 (i) using product or packaging labels as a means of informing consumers about  
8.14 environmentally sound use and management of covered materials;

8.15 (ii) increasing public awareness of how to use and manage covered materials in an  
8.16 environmentally sound manner and how to access waste reduction, reuse, recycling, and  
8.17 composting services; and

8.18 (iii) encouraging behavior change to increase participation in waste reduction, reuse,  
8.19 recycling, and composting programs;

8.20 (16) identification of the covered materials with the most significant environmental  
8.21 impact, including assessing each covered material's generation of hazardous waste, generation  
8.22 of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

8.23 (17) recommendations for meeting the criteria for an alternative collection program as  
8.24 established in section 115A.1451, subdivision 8; and

8.25 (18) other items identified by the commissioner that would aid the creation of the  
8.26 stewardship plan, its administration, and the enforcement of sections 115A.144 to 115A.1463.

8.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.28 Sec. 6. Minnesota Statutes 2024, section 115A.1451, subdivision 7, is amended to read:

8.29 Subd. 7. **Statewide requirements.** (a) The commissioner must establish statewide  
8.30 requirements and the date by which they must be met for the following categories:

8.31 (1) recycling rate;



- 9.1 (2) composting rate;
- 9.2 (3) reuse rate;
- 9.3 (4) return rate;
- 9.4 (5) the percentage of covered materials introduced that must be waste reduced; and
- 9.5 (6) the percentage of postconsumer recycled content that covered materials must contain,
- 9.6 including an overall percentage for all covered materials, as applicable, excluding
- 9.7 compostable materials that cannot include postconsumer recycled content due to unique
- 9.8 chemical or physical properties or health and safety requirements that prohibit introduction
- 9.9 of postconsumer recycled content.

9.10 (b) The commissioner may use the following information and criteria when establishing

9.11 statewide requirements under paragraph (a):

- 9.12 (1) needs assessments under section 115A.1450;
- 9.13 (2) goals and requirements of the Waste Management Act;
- 9.14 (3) statewide goals for greenhouse gas emission reductions under section 216H.02;
- 9.15 (4) the need for continuous progress toward overall reduction in the generation of covered
- 9.16 materials waste and the complete reuse, recycling, or composting of covered materials to
- 9.17 reduce environmental impacts and human health impacts;
- 9.18 (5) a preference for statewide requirements that accomplish and further the goals and
- 9.19 requirements in clauses (2) to (4) as soon as practicable and to the maximum extent
- 9.20 achievable; and
- 9.21 (6) information from packaging and paper product producer responsibility programs
- 9.22 operating in other jurisdictions.

9.23 (c) The commissioner must consult with the producer responsibility organization on

9.24 establishing statewide requirements, submit proposed statewide requirements for review

9.25 by the board, and consider the board's recommendations before finalizing the statewide

9.26 requirements.

9.27 (d) Every five years, the commissioner must review the statewide requirements established

9.28 under paragraph (a). If the commissioner decides an update is not warranted at that time,

9.29 the commissioner must submit the reasoning to the advisory board and consider the board's

9.30 recommendations before making a final decision. If the commissioner decides an update is

9.31 warranted, the process in paragraphs (b) and (c) must be utilized.

10.1 (e) The producer responsibility organization must ensure the statewide requirements are  
10.2 met.

10.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.4 Sec. 7. Minnesota Statutes 2024, section 115A.1454, subdivision 1, is amended to read:

10.5 Subdivision 1. **Annual fee.** A producer responsibility organization must annually collect  
10.6 a fee from each member producer that must:

10.7 (1) vary based on the total amount of covered materials each producer introduces in the  
10.8 prior year calculated on a per-unit basis, such as per ton, per item, or another unit of  
10.9 measurement;

10.10 (2) reflect the program costs for each covered materials type, net of commodity value  
10.11 for that covered materials type, as well as allocated fixed costs that do not vary based on  
10.12 covered materials type;

10.13 (3) incentivize using materials and design attributes that reduce the environmental impacts  
10.14 and human health impacts of covered materials by:

10.15 (i) eliminating intentionally added toxic substances in covered materials;

10.16 (ii) reducing the amount of:

10.17 ~~(A) packaging per individual covered material that is necessary to efficiently deliver a~~  
10.18 ~~product without damage or spoilage and without reducing its ability to be recycled; and~~

10.19 ~~(B) paper used to manufacture individual paper products;~~

10.20 (iii) increasing the amount of covered materials managed in a reuse system;

10.21 (iv) increasing the proportion of postconsumer material in covered materials;

10.22 (v) enhancing the recyclability or compostability of a covered material; and

10.23 (vi) increasing the amount of inputs derived from renewable and sustainable sources;

10.24 (4) discourage using materials and design attributes in covered materials whose  
10.25 environmental impacts and human health impacts can be reduced by the methods listed  
10.26 under clause (3);

10.27 (5) prioritize reuse by charging covered materials that are managed through a reuse  
10.28 system only once, upon initial entry into the marketplace; and

10.29 (6) generate revenue sufficient to pay in full:

10.30 (i) the fee required under section 115A.1443;

- 11.1 (ii) financial obligations to complete activities described in an approved stewardship  
11.2 plan and to reimburse service providers under section 115A.1455;
- 11.3 (iii) the operating costs of the producer responsibility organization; and
- 11.4 (iv) for establishment and maintenance of a financial reserve that is sufficient to operate  
11.5 the program in a fiscally prudent and responsible manner.
- 11.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.